

House File 591

H-1482

1 Amend House File 591 as follows:  
2 1. By striking everything after the enacting clause  
3 and inserting:  
4 <Section 1. Section 717.1, Code 2011, is amended by  
5 adding the following new subsections:  
6 NEW SUBSECTION. 01. "*Department*" means the  
7 department of agriculture and land stewardship.  
8 NEW SUBSECTION. 001. "*Electronic mail*" means any  
9 message transmitted through the internet including but  
10 not limited to messages transmitted from or to any  
11 address affiliated with an internet site.  
12 Sec. 2. NEW SECTION. 717.3 Livestock in immediate  
13 need of sustenance — court order.  
14 1. This section applies only to livestock which are  
15 cattle, sheep, swine, or poultry.  
16 2. For purposes of this section, "*interested person*"  
17 means all of the following:  
18 a. An owner of the livestock.  
19 b. A person caring for the livestock, if different  
20 from the owner of the livestock.  
21 c. A person holding a perfected agricultural lien  
22 or security interest in the livestock under chapter  
23 554.  
24 3. The department may determine that some or all  
25 of the livestock kept by a person are in immediate  
26 need of sustenance. Upon making the determination the  
27 department may file a petition with a district court  
28 in a county where some or all of the livestock are  
29 kept requesting the court to issue an order to provide  
30 sustenance of the livestock. The petition may be made  
31 separately or with a petition filed pursuant to section  
32 717.5. The petition must at least include all of the  
33 following:  
34 a. A statement signed by a veterinarian licensed  
35 pursuant to chapter 169 stating that the livestock are  
36 in immediate need of sustenance.  
37 b. The address of each location where the livestock  
38 are kept.  
39 c. A brief description of the livestock.  
40 d. The name and address of each interested person,  
41 if known.  
42 e. The name and address of each qualified person  
43 appointed by the department to provide sustenance to  
44 the livestock.  
45 4. Upon receiving the petition, the court may do  
46 any of the following:  
47 a. Notify any interested person that the petition  
48 has been filed with the court. The notification must  
49 be made in writing and may be delivered by ordinary,  
50 certified, or restricted certified mail by United

1 States postal service; delivered by a common carrier;  
2 or transmitted by electronic mail.  
3     **b.** Hold a hearing to determine whether the  
4 livestock are in immediate need of sustenance.  
5     5. If the court determines that the livestock are  
6 in immediate need of sustenance, the court shall issue  
7 an order which at least declares all of the following:  
8     **a.** That the livestock are in immediate need of  
9 sustenance.  
10    **b.** That the department shall assume supervision of  
11 and provide for the sustenance of the livestock and as  
12 provided in section 717.4.  
13    **c.** That a lien is created attaching to the  
14 livestock and associated proceeds and products as  
15 provided in section 717.4.  
16     6. The department shall assume supervision of  
17 the livestock as provided in the court order. The  
18 department may directly provide for the sustenance of  
19 the livestock or appoint a qualified person to provide  
20 for such sustenance.  
21     **Sec. 3. NEW SECTION. 717.4 Livestock in immediate**  
22 **need of sustenance — lien.**  
23     1. This section applies to a lien created by a  
24 court order entered pursuant to section 717.3 or 717.5.  
25 The court ordered lien is an agricultural lien subject  
26 to chapter 554 except as otherwise provided in this  
27 section.  
28     2. The court ordered lien shall be for the benefit  
29 of the department. The amount of the lien shall be not  
30 more than expenses incurred in providing sustenance to  
31 the livestock pursuant to section 717.3 and providing  
32 for the disposition of the livestock pursuant to  
33 section 717.5.  
34     3. The court ordered lien shall attach to the  
35 livestock, identifiable proceeds from the disposition  
36 of the livestock, and products from the livestock in  
37 the products' unmanufactured states.  
38     4. The court ordered lien becomes effective on the  
39 date that the court order is entered. To perfect the  
40 lien, the department must file a financing statement  
41 in the office of the secretary of state as provided  
42 in sections 554.9308 and 554.9310 on or after but not  
43 later than twenty days after the effective date of  
44 the lien. For purposes of chapter 554, article 9,  
45 the department is a secured party; the owner of the  
46 livestock is a debtor; and the livestock and associated  
47 proceeds and products as provided in subsection 3 are  
48 the collateral.  
49     5. The court ordered lien that is perfected under  
50 this section is superior to and shall have priority

1 over a conflicting lien or security interest in the  
2 livestock and associated proceeds and products as  
3 provided in subsection 3, including a lien or security  
4 interest that was perfected prior to the perfection of  
5 the court ordered lien.

6 Sec. 4. **NEW SECTION. 717.4A Livestock in immediate**  
7 **need of sustenance — livestock remediation fund.**

8 The department may utilize the moneys deposited  
9 into the livestock remediation fund pursuant to  
10 section 459.501 to pay for any expenses associated  
11 with providing sustenance to or the disposition of the  
12 livestock pursuant to a court order entered pursuant to  
13 section 717.3 or 717.5. The department shall utilize  
14 moneys from the fund only to the extent that the  
15 department determines that expenses cannot be timely  
16 paid by utilizing the available provisions of sections  
17 717.4 and 717.5. The department shall deposit any  
18 unexpended and unobligated moneys in the fund. The  
19 department shall pay the fund the proceeds from the  
20 disposition of the livestock and associated products  
21 less expenses incurred by the department in providing  
22 for the sustenance and disposition of the livestock, as  
23 provided in section 717.5.

24 Sec. 5. Section 717.5, subsections 1 through 3,  
25 Code 2011, are amended to read as follows:

26 1. a. A court shall order the disposition of  
27 livestock neglected as provided in section 717.2  
28 after a hearing upon application or petition to the  
29 court or livestock in immediate need of sustenance and  
30 associated products as provided in sections 717.3 and  
31 717.4 in accordance with this section.

32 (1) A petition may be filed by a local authority or  
33 a person owning or caring for the livestock pursuant  
34 to section 717.2.

35 (2) A petition may be filed by the department.  
36 The court shall notify interested persons in the same  
37 manner as provided in section 717.3. The petition may  
38 be filed separately or with a petition filed pursuant  
39 to section 717.3.

40 b. The matter shall be heard by the court within  
41 ten days from the filing of a the petition by the local  
42 authority or the person.

43 (1) The For livestock alleged to be neglected under  
44 section 717.2, the court may continue the hearing for  
45 up to forty days upon petition by the person. However,  
46 the person shall post a bond or other security with the  
47 local authority in an amount determined by the court,  
48 which shall not be more than the amount sufficient to  
49 provide for the maintenance of the livestock for forty  
50 days. The court may grant a subsequent continuance by

1 the person for the same length of time if the person  
2 submits a new bond or security.

3 (2) For livestock alleged to be in immediate need  
4 of sustenance under section 717.3, the court may  
5 continue the hearing for up to forty days upon petition  
6 by the department. The department may file and the  
7 court may grant one or more subsequent continuances  
8 each for up to forty days. The department is not  
9 required to post a bond or other security.

10 c. However, the Notwithstanding paragraph "b", the  
11 court shall order the immediate disposition of the  
12 livestock if the livestock is permanently distressed  
13 by disease or injury to a degree that would result in  
14 severe or prolonged suffering.

15 2. The hearing to determine if livestock has  
16 been neglected under section 717.2 for purposes of  
17 disposition shall be a civil proceeding. If the case  
18 is related to a criminal proceeding under section  
19 717.2, the disposition shall not be part of that  
20 proceeding and shall not be considered a criminal  
21 penalty imposed on a person found in violation of  
22 section 717.2.

23 3. A court may order a person owning the neglected  
24 livestock neglected under section 717.2 or in immediate  
25 need of sustenance under section 717.3 to pay an amount  
26 associated with expenses associated with the livestock  
27 as follows:

28 a. (1) ~~which~~ For livestock neglected under section  
29 717.2, the amount shall not be more than the for  
30 expenses incurred by the local authority in maintaining  
31 and disposing the neglected livestock rescued pursuant  
32 to section 717.2A, and reasonable attorney fees and  
33 expenses related to the investigation of the case. The  
34 remaining amount of a bond or other security posted  
35 pursuant to this section subsection 1 shall be used to  
36 reimburse the local authority.

37 (2) For livestock in immediate need of sustenance  
38 under section 717.3, the amount shall not be more than  
39 for expenses incurred by the department in providing  
40 sustenance to and disposing of the neglected livestock  
41 as provided in section 717.3 and this section. The  
42 amount paid to the department shall be sufficient to  
43 allow the department to repay the livestock remediation  
44 fund as provided in section 459.501.

45 b. If more than one person has a divisible  
46 ownership interest in the livestock, the amount  
47 required to be paid shall be prorated based on the  
48 percentage of interest in the livestock owned by  
49 each person. The moneys shall be paid to the local  
50 authority or department incurring the expense as

1 provided in paragraph "a". The amount shall be  
2 subtracted from proceeds owed to the owner or owners of  
3 the livestock, which are received from the sale of the  
4 livestock ordered by the court.

5 c. (1) Moneys owed to the local authority from  
6 the sale of neglected livestock that have been rescued  
7 by a local authority pursuant to section 717.2A shall  
8 be paid to the local authority before satisfying  
9 indebtedness secured by any security interest in or  
10 lien on the livestock. Moneys owed to the department  
11 from the sale of livestock in immediate need of  
12 sustenance and associated products shall be paid to  
13 the department according to its priority status as a  
14 lienholder as provided in section 717.4.

15 (2) If an owner of the livestock is a landowner,  
16 the local authority may submit an amount of the moneys  
17 owed to the clerk of the county board of supervisors  
18 who shall report the amount to the county treasurer.  
19 The amount shall equal the balance remaining after the  
20 sale of the livestock. If the livestock owner owns a  
21 percentage of the livestock, the reported amount shall  
22 equal the remaining balance owed by all landowners  
23 who own a percentage of the livestock. That amount  
24 shall be prorated among the landowners based on the  
25 percentage of interest in the livestock attributable to  
26 each landowner. The amount shall be placed upon the  
27 tax books, and collected with interest and penalties  
28 after due, in the same manner as other unpaid property  
29 taxes. The county shall reimburse a city within thirty  
30 days from the collection of the property taxes.

31 **Sec. 6. NEW SECTION. 717.6 Rulemaking.**

32 The department may adopt rules pursuant to chapter  
33 17A as required to implement and administer sections  
34 717.3 through 717.5.

35 **Sec. 7. Section 459.501, subsections 1, 3, and 5,**  
36 **Code 2011, are amended to read as follows:**

37 1. A ~~manure storage indemnity~~ livestock remediation  
38 fund is created as a separate fund in the state  
39 treasury under the control of the department. The  
40 general fund of the state is not liable for claims  
41 presented against the fund.

42 3. a. The moneys collected under this section  
43 shall be deposited in the fund and shall be  
44 appropriated to the department for the following  
45 exclusive purpose of providing purposes:

46 (1) To provide moneys for cleanup of abandoned  
47 facilities as provided in section 459.505, and to pay  
48 the department for costs related to administering the  
49 provisions of this subchapter. For each fiscal year,  
50 the department shall not use more than one percent of

1 the total amount which is available in the fund or ten  
2 thousand dollars, whichever is less, to pay for the  
3 costs of administration.

4 (2) To allocate moneys to the department of  
5 agriculture and land stewardship for the payment of  
6 expenses incurred by the department of agriculture and  
7 land stewardship associated with providing for the  
8 sustenance and disposition of livestock in immediate  
9 need of sustenance pursuant to chapter 717. The  
10 department of natural resources shall allocate any  
11 amount of unencumbered and unobligated moneys demanded  
12 in writing by the department of agriculture and land  
13 stewardship as provided in this subparagraph. The  
14 department of natural resources shall complete the  
15 allocation upon receiving the demand.

16 b. Moneys in the fund shall not be subject to  
17 appropriation or expenditure for any other purpose than  
18 provided in this section.

19 5. The following shall apply to moneys in the fund:

20 a. (1) The executive council may allocate moneys  
21 from the general fund of the state as provided in  
22 section 7D.10A in an amount necessary to support the  
23 fund, including the following:

24 (a) The payment of claims as provided in section  
25 459.505.

26 (b) The allocation of moneys to the department  
27 of agriculture and land stewardship for the payment  
28 of expenses incurred by the department of agriculture  
29 and land stewardship associated with providing for the  
30 sustenance and disposition of livestock pursuant to  
31 chapter 717.

32 (2) However, notwithstanding subparagraph (1),  
33 the allocation of moneys from the general fund of the  
34 state shall be made only if the amount of moneys in the  
35 fund, which are not obligated or encumbered, and not  
36 counting the department's estimate of the cost to the  
37 fund for pending or unsettled claims, the amount to be  
38 allocated to the department of agriculture and land  
39 stewardship, and any amount required to be credited to  
40 the general fund of the state under this subsection, is  
41 less than one million dollars.

42 b. The department of natural resources shall credit  
43 an amount to the general fund of the state which  
44 is equal to an amount allocated to the fund by the  
45 executive council under paragraph "a". The department  
46 shall credit the moneys to the general fund of the  
47 state if the moneys in the fund which are not obligated  
48 or encumbered, and not counting the department's  
49 estimate of the cost to the fund for pending or  
50 unsettled claims, the amount to be allocated to the

1 department of agriculture and land stewardship, and  
2 any amount required to be transferred to the general  
3 fund under this paragraph, are in excess of two million  
4 five hundred thousand dollars. The department is not  
5 required to credit the total amount to the general fund  
6 of the state during any one fiscal year.

7 Sec. 8. Section 579A.2, subsection 5, Code 2011, is  
8 amended to read as follows:

9 5. ~~a. Except as provided in this paragraph, a A~~  
10 custom cattle feedlot lien that is perfected under  
11 this section is superior to and shall have priority  
12 over a conflicting lien or security interest in the  
13 cattle, including a lien or security interest that was  
14 perfected prior to the perfection of the custom cattle  
15 feedlot lien. ~~However~~

16 b. Notwithstanding paragraph "a", a custom cattle  
17 feedlot lien shall not be superior to a court-ordered  
18 lien provided in section 717.4 or a veterinarian's  
19 lien created under chapter 581, that if such lien  
20 is perfected as an agricultural lien as provided in  
21 chapter 554, article 9.

22 ~~d. c.~~ A custom cattle feedlot lien that is  
23 effective but not perfected under this section has  
24 priority as provided in section 554.9322.

25 Sec. 9. Section 579B.4, subsection 4, paragraph a,  
26 Code 2011, is amended to read as follows:

27 ~~a. (1) Except as provided in this paragraph, a A~~  
28 commodity production contract lien that is perfected  
29 under this section is superior to and shall have  
30 priority over a conflicting lien or security interest  
31 in the commodity, including a lien or security interest  
32 that was perfected prior to the perfection of the  
33 commodity production contract lien under this chapter.  
34 ~~However~~

35 (2) Notwithstanding subparagraph (1), a commodity  
36 production contract lien shall not be superior to a  
37 court ordered lien provided in section 717.4 or a  
38 veterinarian's lien created under chapter 581, that if  
39 such lien is perfected as an agricultural lien.

40 Sec. 10. Section 581.2, subsection 2, Code 2011, is  
41 amended to read as follows:

42 2. a. A veterinarian's lien that is perfected  
43 under section 581.3 shall have priority over any  
44 conflicting security interest or lien in livestock  
45 treated by a veterinarian, regardless of when such  
46 security interest or lien is perfected.

47 b. Notwithstanding paragraph "a", a veterinarian's  
48 lien shall not be superior to a court ordered lien  
49 provided in section 717.4, if such lien is perfected as  
50 an agricultural lien.

1       Sec. 11. CODE EDITOR DIRECTIVE. Sections 7D.10A,  
2 459.303, 459.503A, and 460.206, Code 2011, are amended  
3 by striking from the sections the words "manure storage  
4 indemnity fund" and inserting in lieu thereof the words  
5 "livestock remediation fund".>  
6       2. By renumbering as necessary.

---

SWEENEY of Hardin